



OBSERVATOIRE DES ACTIONS DE GROUPE
et autres Actions Collectives

Italian implementation of the Representative Actions Directive

Attuazione della direttiva (UE) 2020/1828 del Parlamento europeo e del Consiglio, del 25 novembre 2020, relativa alle azioni rappresentative a tutela degli interessi collettivi dei consumatori e che abroga la direttiva 2009/22/CE

Implementation of Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC
(Legislative Decree No 28 of 10 March 2023)

Law No 127, 04/08/2022, allowed the Italian government to transpose the Representative Actions Directive into national law. The Decree entered into force on 07/04/2023, and applies to actions concerning violations from 25/06/23 onwards. The country's class action procedure had already been reformed by national Law No 31/2019, with a prevailing opt-in mechanism. This Decree (mainly by adding to the national Consumer Code) implements Law No 127 and highlights the regulatory and institutional obligations already provided for in current national legislation, which deals with class actions.

The procedure extends to cross-border actions, if the Italian judge has jurisdiction, and seeks to avoid burdens on public finance. Actions are brought before the specialised business division of civil courts, and a wide range of consumer matters (eg, from consumer credit and e-commerce to unfair contract terms), specified in the Annex, fall under the Decree's scope. The scope can also be extended in future with the enactment of new laws. A novel feature is that standing (both cross-border and domestic) can be granted to national independent public bodies.

Continuing with its previous approach, the Decree employs an opt-in scheme for consumers, who may join even after liability is decided. Notably, if there are cross-border effects to a trader's activity, qualified entities from different EU Member States can jointly seek compensation or an injunction. This significantly broadens the reach of the class action. As well as the general class action procedure, provisional injunctive relief is available. The amendments focus on prevention, deterrence, and *compensation* for collective harm.

Another aim of the Decree is to ensure that information about the collective actions being brought is publicly available on official websites. This is done for the benefit of consumers and allows them to follow developments and opt in to actions concerning them. 'Insofar as compatible', the procedure follows the 'simplified' procedure of the Italian Civil Procedure Code. The first steps before the court are an initial first hearing, and within 30 days of this, a decision on the application's admissibility. Judgment can be suspended for investigation of facts before an independent authority or administrative court.

For official texts: <https://www.gazzettaufficiale.it/eli/id/2023/03/23/23G00036/sg>; <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=NIM:202301900>